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A Snapshot of the SEC Whistleblower Office

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Andrew Ceresney, the director of the Division of Enforcement at the SEC, gave a speech recently about the success of the SEC whistleblower program. It contained some interesting data that provides a sense of the SEC's efforts:

- The SEC has paid out over $107 million to 33 whistleblowers involving case with more than $550 million ordered in sanctions.
- 18 dedicated staff members at the SEC are responsible for the initial review and intake of tips, as well as tracking them and evaluating award claims.
- There has been a 30% increase in tips since inception, from 3,001 in fiscal 2012 to nearly 4,000 last year. Over the life of the program, the staff has received 14,000 tips from whistleblowers in every state and over 95 foreign countries.
- 18% of whistleblower complaints related to issuer reporting and disclosures, the most common types of tips. 16% pertained to offering frauds, especially involving retail investors.
- The largest whistleblower award to date, $30 million, went to a foreign whistleblower for an FCPA action.
- Half of the whistleblowers in 2015 were current or former employees of the companies that were the subject of the tips. The SEC has paid awards to compliance and audit personnel who fit within the exceptions of the whistleblower rules. At least one of the whistleblowers had first reported the allegations internally. Insiders with some culpability in the misconduct are also eligible for awards within limits, and the amount of an award takes culpability into account. Company outsiders often provide data analysis or in-depth market knowledge and experience.
- The agency has settled four actions against companies for violating rules that prohibit impeding communications with the SEC about possible securities law breaches. We previously discussed two of them here.

At the Taxpayers Against Fraud Conference, Cesereny urged whistleblowers to come forward early. He stated that whistleblowers should realize that they can provide assistance at any point during an investigation, not just helping to get a case being initiated. Whistleblowers may be eligible for an award if the information they provide significantly contribute to the SEC's success, which includes allowing the SEC to bring actions more quickly, expend fewer resources or even bring additional claims or claims against additional parties. Delay in reporting information may, in fact, reduce the amount of awards.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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